

PAMPANGA SUGAR DEVELOPMENT CO., INC., PETITIONER, VS. DONATO QUIROZ, RESPONDENT.

G.R. No. L-22117. April 29, 1966

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Although entitled "Petition for Certiorari" and the prayer thereof suggests that it is an original action for certiorari, this proceeding is, in effect, an appeal by certiorari from a decision of the Workmen's Compensation Commission sentencing herein petitioner, Pampanga Sugar Development Co., Inc., hereinafter referred to as the Company, to pay P1,899.24 to Donato Quiroz, plus P142.44 to his counsel and P24.00 to the Workmen's Compensation Fund.

The facts are set forth in said decision, from which we quote:

"There is practically no controversy as to the circumstances surrounding the accident that befell the claimant. The claimant[1] who was employed as centrifugal operator by the respondent[2] reported for work on March 7, 1958 at around 9:30 p.m. and was dismissed at around 5:30 a.m. the following day. Soon after he stepped out of the company gate, and while standing about 2-1/2 meters from it between the shoulder of the highway and a railroad that came from inside the compound and intersected the highway, waiting for a ride home, he was bumped by a jeepney as a result of which he sustained various wounds on his body as well as a complete fracture of his left clavicle. According to the records of the case, the injured was with other employees of the same company waiting for transportation. There is nothing in the records which shows that respondent had taken measures to make the waiting place safe for the employees."

The main issue for determination in this case is whether the injuries sustained by claimant Quiroz, under the circumstances indicated, were produced by an accident "arising out of and in the course of employment", as this clause is used in Section 2 of the Workmen's Compensation Act.

As stated in *In re McNicol* (102 NE [1913] 697):

"* * * It is sufficient to say that an injury is received 'in the course of employment when it comes while the workman is doing the duty which he is employed to perform. It arises 'out of' the employment when there is apparent in the rational mind * * * causal connection between the conditions under which the work is required to be performed and the resulting injury * * *. But it excludes an injury which cannot fairly be traced to the employment as a contributing proximate cause and which comes from a hazard to which the workman would have been equally exposed apart from the employment. The causative danger must be peculiar to the work, and not common to the neighborhood. It must be incidental to the character of the business, and not independent of the relation of master and servant. It need not have been foreseen or expected, but after the event, it must appear to have had its origin on a risk connected with the employment, to have flowed from that source as a rational consequence.

"An injury or accident 'befalls a man in the course of his employment, if it occurs while he is doing what a man may reasonably do within a time during which he is employed, and at a place where he may reasonably be during that time. 13 NACCA LAW JOURNAL 28-29. And it 'arises out of the work of the employer, when it

results from a risk or hazard which is necessarily or ordinarily or reasonably inherent in or incident to the conduct of such work or business." (Italics ours.)

As a consequence, the general rule, subject to exceptions, is that injuries sustained by an employee, outside the premises of the employer, while going to or returning from work, are not compensable. Referring to the exceptions, Larson has this to say:

"* * * recoveries have been allowed off the employment premises, outside business hours, when an employee going to or coming from work is injured by a hazard distinctly traceable to the employment, such as a traffic jam overflowing from the employment premises, or a rock flying through the air from a blast on the premises. Here, by normal course of employment standards, there would be no award, since the employee was not on the premises while coming or going. Yet the unmistakable character of the causal relation of the injury to the employment has been sufficient to make up for the weakness of the 'course' factor. Another example of the same kind of balancing-out is seen in the line of cases dealing with injury to travelling men or loggers while sleeping in hotels or bunkhouses. It was shown in the analysis of these cases that, although the 'course' factor is on the borderline when the employee is sound asleep at the time of injury, a strong causal relation of the injury to the conditions of employment—as where a fellow-logger runs amok, or a straw falls into a bunkhouse-inmate's throat from the mattress above, or the employee is trapped in a burning hotel—will boost the case over the line to success; while a weak causal relation, as where the salesman merely slips in the hotel bath, coupled with the weak 'course' factor due to the absence of any direct service performed for the employer at the time, will under present decisions add up to a quantum of work-connection too small to support an award." [3] (Italics ours.)

Thus, the compensability of an injury suffered by an employee proceeding to or coming from his work depends upon whether or not it is "work connected". As Chief Justice Kenison of New Hampshire has put it, "the fact that the employee is travelling to or from work on a public highway does not necessarily exclude coverage (*Brousseau vs. Blackstone Mills*, 130 A 2d 543, 545). Conversely, it is not enough to say that the employee would not have been on the public highway had it not been for his job, since the same can usually be said of the general public (*Payne & Dolan vs. Industrial Commission*, 46 NE 2d 925). The law, in effect, insures the employee against losses arising from the perils of his work. In other words, the Workmen's Compensation Act covers occupational injuries, which, as such, must have a causative connection with something, not merely in common with the public, but peculiar to the employment. In order to warrant recovery for off-the-premises injuries, it must be shown that there has been a very special danger, some particular risk which the employer could have caused or allowed to exist." [4] Hence:

"It is significant that practically all successful off-the-premises cases have involved either a dangerous railroad crossing lying in the normal route of access to the plant, or an icy sidewalk adjacent to the premises and therefore identified with the premises in the sense that the employer should have removed the ice. In other words, there has always been a very special danger." [5] (Italics ours.)

It is true that in *Philippine Fiber Processing Co. vs. Ampil*, G.R. No. L-7130 (June 30, 1956), we held the employer liable for an injury sustained by an employee who, as he was running to his place of work to avoid the rain, slipped and fell into a ditch in front of the factory's main gate and near the same. The ditch was, however, in itself an obvious hazard which, owing to its proximity to the gate, the employer should have taken measures to remove. Thus, thru his inaction, he had contributed, in a special way, to the occurrence of the accident.

In the case at bar, no such special circumstances appears to exist. There is no particular causative connection between the injury sustained by the employee and either his work or his employer. Although, as stated in the decision appealed from, the record does not show that the company "had taken measures to make the waiting place safe for the employees", neither does the record show either that the accident occurred at the usual waiting

place of the employees, or that said place was particularly unsafe.

Wherefore, the decision appealed from is hereby reversed, and petitioner herein absolved from the claim of Donato Quiroz, without special pronouncement as to costs. It is so ordered.

Bengzon, C.J., Bautista Angelo, Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

[1] Referring to respondent herein, Donato Quiroz.

[2] Referring to the Company.

[3] I Larson's Workmen's Compensation Law, pp. 443-444.

[4] Smith vs. Camel Mfg. Co. 241 S.W., 2d 771; Brousseau vs. Blackstone Mills, 130 A 2d 543; Nelson vs. City of Saint Paul, 81 N.W. 2d 272; Christian vs. Chicago & Illinois Midland Ry. Co., 97 N.E. 2d 576.

[5] 1 Larson's Compensation Law, Sec. 15.22, p. 205.

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